

NOTICE OF PENDENCY OF CLASS ACTION

TO: EVERYONE WHO PURCHASED A MEMBERSHIP TO KIMKINS.COM THROUGH THE KIMKINS.COM WEB SITE (www.kimkins.com) FROM JANUARY 1, 2006 TO OCTOBER 15, 2007

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY A CLASS-ACTION LAWSUIT THAT IS CURRENTLY PENDING IN RIVERSIDE COUNTY SUPERIOR COURT, IN RIVERSIDE, CALIFORNIA.

INTRODUCTION

1. On May 20, 2009, the Riverside County Superior Court, located in Riverside, California, issued an order certifying this case to proceed as a class action.

2. The plaintiffs are six individuals who bought memberships to kimkins.com through the kimkins.com Website (www.kimkins.com) from January 1, 2006 to October 15, 2007. The defendants are Heidi Diaz, an individual, and Kimkins (also known as Kimkins.com), a business entity that conducts business in Corona, California.

3. The plaintiffs contend that Diaz and Kimkins.com induced them into buying memberships for kimkins.com through false and misleading information provided on the Kimkins.com Web site. The plaintiffs contend that the defendants violated California Business & Professions Code § 17200, et seq., which authorizes courts to provide relief from unfair, unlawful, and fraudulent business practices. The plaintiffs also contend that Diaz and Kimkins.com violated common law prohibitions against fraud and negligent misrepresentation.

4. This notice provides you with information regarding the litigation, including the plaintiffs' claims against the defendants and the current status of the litigation. This notice also provides you with information regarding the court's class-certification order.

THE LITIGATION

The Plaintiffs' Claims

5. This lawsuit is based on the plaintiffs' claims that Diaz and [Kimkins](http://Kimkins.com) used unfair, unlawful, or fraudulent business practices to induce them into buying memberships to Kimkins.com. This lawsuit is also based on the plaintiffs' claims that the false and misleading information contained on the kimkins.com Web site constituted fraud or negligent misrepresentation by Diaz and [Kimkins](http://Kimkins.com).

6. Here's a list of the kinds of misconduct that the plaintiffs have alleged:

- that Diaz and [Kimkins](http://Kimkins.com) concocted a false persona, "Kim Drake" or "Kimmer" to sell memberships to Kimkins.com

- that Diaz and Kimkins misled potential members into believing that “Kim Drake” was real by using photos of real women and then falsely claiming that the photos depicted “Drake”
- that Diaz and Kimkins posted lied about “Drake’s” purported weight loss
- that Diaz and Kimkins provided false or misleading information to Women’s World magazine
- that Diaz and Kimkins fabricated 41 “success stories” and published on the Kimkins.com Web
- that Diaz and Kimkins made up celebrity endorsements
- that Diaz and Kimkins misused labels and metatags to steer Internet traffic to the Kimkins.com Website, in violation of the law
- that Diaz and Kimkins misled potential members into believing that they were buying lifetime memberships, when in fact Diaz and Kimkins.com terminated memberships at their whim
- that Diaz and Kimkins intended to mislead potential members and assumed that potential members would rely on her misrepresentations.

The Defendants’ Position

7. Diaz and Kimkins have denied all allegations of wrongdoing and liability, and they continue to deny that they have done anything wrong. Diaz and Kimkins also have asserted various affirmative defenses to the plaintiffs’ claims.

THE COURT’S CLASS-CERTIFICATION ORDER

8. In an order filed May 20, 2009, the Court granted the Plaintiffs’ Motion for Class Certification. The Court certified for class treatment the plaintiffs’ claims for equitable relief, including disgorgement of the subscription fees paid to Diaz and Kimkins by the plaintiffs and the members of the class.

9. The certified class is defined as all individuals who purchased the Kimkins.com diet membership on-line from the Kimkins.com Web site from January 1, 2006 through October 15, 2007.

THE COURT HAS NOT EXPRESSED ANY OPINIONS REGARDING THE MERITS OF THE PLAINTIFFS’ CLAIMS

10. The Court ordered that this notice be provided to advise class members that this case is pending and that the Court has certified the case to proceed as a class action. You should not consider this notice or its mailing to be a statement by the Court that the plaintiffs are right or that their claims will prevail.

INSTRUCTIONS TO CLASS MEMBERS

11. You do not need to do anything to remain a member of the class. If you bought a Kimkins.com diet membership on-line from the Kimkins.com Web site from January 1, 2006 through October 15, 2007—including either of those dates—you are automatically included in the class. Your rights will be represented by the plaintiffs and their attorneys. You will not be personally responsible for any attorney fees or for the any of the costs of this litigation.

OPT OUT OF CLASS ACTION LAWSUIT

12. You have the opportunity to opt out of the class action lawsuit as detailed herein. If you incurred a personal injury as a result of using the Kimkins.com aka Kimkins Diet, you have a right to opt out. Notices to opt must be sent to jtiedt@tiedtlaw.com or mailed to Tiedt & Hurd at 980 Montecito Drive, Suite 209, Corona, California 92879.

WHERE TO GO & WHOM TO CONTACT SHOULD YOU NEED MORE INFORMATION

13. This notice provides only a brief summary of this litigation. For further details, you should take one or both of the following steps:

- Review the documents in the Court's file for this lawsuit. Many of these documents may be viewed or obtained on-line at the following URL: <http://public-access.riverside.courts.ca.gov/OpenAccess/> . You also may review the Court's file in person by going to the Office of the Clerk of the Court for the Riverside Superior Court, during regular business hours. The Clerk's office is located at 4050 Main Street, Riverside, California 92501.
- Write a letter to the attorneys who are representing the plaintiffs and whom the Court has appointed to represent the class. Here are their names and their contact information:

John E. Tiedt & Marc S. Hurd
Tiedt & Hurd
980 Montecito Drive, Suite 209
Corona, California 92879

Michael L. Cohen
Michael L. Cohen, a PLC
707 Wilshire Blvd., Suite 4100
Los Angeles, California 90017

Ray Moore
Moore Winter McLennan LLP
701 N. Brand Blvd., Suite 200
Glendale, California 92103-4232

If you decide to contact one of the plaintiffs' attorneys, please do so in writing. To make it easier for them or one of their staff members to respond, however, your letter should include both your e-mail address and your telephone number.

There are estimated to be as many as 40,000 members in the class. So please, DO NOT CALL THE COURT OR ATTEMPT TO CONTACT THE COURT BY E-MAIL.

DATE: _____, 2009

Hon. _____,
Presiding Judge